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Discussed proposed amended paragraph beginning at page 22, line 14, of the specification (see attached proposed amendments). The examiner stated that the amended paragraph would overcome the objection to the specification set forth in the office action mailed on Oct. 14, 2004, paragraph 3, item (2). The examiner also stated applicants should indicate where there is antecedent basis for the amended paragraph in the originally filed specification, or present supporting arguments indicating that the amendment corrects an obvious typographic error and evidence showing that the definitions of the terms SF-1 and SF-2, presented in the amended paragraph, are well-known in the art.

Discussed proposed amendments to the claims adding the limitation that the polyester resin contains nitrogen (see attached proposed amendments). The examiner indicated that the proposed amended claims 1, 3, 5, and 15 (and claims 16-19 if they were amended to recite that the polyester resin contains nitrogen) appears to overcome the rejections over Nakayama set forth in the prior office action, paragraphs 12-17.

To overcome the rejections over Sugiyama, the examiner stated that applicants should provide objective evidence showing that the toner disclosed by Sugiyama does not possess the nitrogen concentration recited in proposed amended claims 1, 3,

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5, and 15. The examiner also noted that the method of obtaining a toner with a higher nitrogen concentration at the surface of the toner particle, disclosed at page 48, lines 10-17, of the specification, is a preferred method. The specification states that "it is preferable to allow the reaction to mature . . . ." (emphasis added). The specification does not disclose that the maturing step disclosed at page 48, lines 10-17, is required to obtain the higher nitrogen concentration. For the reasons discussed in the prior art office, paragraph 18, the Sugiyama toner meets the compositional limitations recited in amended claim 1, and appears to meet the process limitations recited in claim 11, which depends on proposed amended claim 1. Thus, it is reasonable to presume that the Sugiyama toner has the properties recited in the amended claims. The burden is on applicants to prove otherwise.